

People v. Ivan Schwartz. 17PDJo84. December 22, 2017.

The Presiding Disciplinary Judge approved the parties' conditional admission of misconduct and publicly censured Ivan Schwartz (California attorney registration number 153264), effective December 22, 2017.

Schwartz, who is admitted to practice law in California but not Colorado, sought *pro hac vice* admission in a Montezuma County District Court case to represent a trust and its trustee, Schwartz's father. In his motion requesting *pro hac* admission, Schwartz disclosed that he had twice been disciplined in California. Opposing counsel objected to Schwartz's admission, and the court denied Schwartz's motion.

About two months later, local counsel withdrew from the case. Soon thereafter, Schwartz's father filed a motion to continue a hearing slated to take place in two weeks' time. Schwartz drafted that motion as well as a notice of change of address, which was filed with the court on the same day. Neither submission contained a disclosure that Schwartz had assisted in its preparation.

While awaiting ruling on the continuance, Schwartz communicated with opposing counsel via email, stating that he would appear telephonically at the hearing on the trust's behalf if the court did not grant a continuance. A day before the hearing, the court denied the continuance.

On the day of the hearing, Schwartz faxed a letter to the court, along with a motion to dismiss. Schwartz drafted the letter and the motion, but both documents were signed by his father. The clerk denied the filing on the grounds that the documents had been prepared by an attorney who was not licensed in Colorado. Schwartz then appeared by telephone on the trust's behalf and, when questioned, told the court that he had drafted the motion to dismiss. The court found that by appearing on behalf of the trust and trustee, Schwartz acted in violation of the court's order denying his *pro hac* admission. Schwartz stated that he believed he could appear for his father, and that he was unaware Colorado law prohibited a nonattorney trustee from representing a trust *pro se*.

Through this misconduct, Schwartz violated Colo. RPC 3.4(c) (a lawyer shall not knowingly disobey an obligation under the rules of a tribunal); Colo. RPC 5.5(a)(1) (a lawyer shall not practice law without a law license or other specific authorization); and Colo. RPC 5.5(a)(2) (a lawyer shall not practice law where doing so violates regulations of the legal profession).